



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0457; FRL-11008-01-R4]

Air Plan Approval; Georgia;

Miscellaneous Rule Revisions to Gasoline Dispensing Facility – Stage I

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Georgia State Implementation Plan (SIP), submitted by the State of Georgia through the Georgia Environmental Protection Division (GA EPD) via a letter dated November 4, 2021. The SIP revision revises Georgia's Stage I vapor recovery rules primarily by removing outdated references and making several clarifying edits. The revision also updates several definitions and makes two substantive changes. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0457 at [www.regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

CAA section 182(b)(2) requires states to revise their SIPs to include provisions implementing Reasonably Available Control Technology (RACT) for each category of volatile organic compound (VOC) sources covered by a Control Techniques Guidelines (CTG)<sup>1</sup> document in ozone nonattainment areas that are classified as moderate or above. CAA Section 182(2)(B) specifically requires states to include VOC RACT measures in their SIPs if the area is covered by a CTG issued prior to November 15, 1990. In 1975, EPA established a CTG addressing the control of VOC emissions from gasoline dispensing facilities (GDFs).<sup>2</sup> For certain GDFs, owners or operators are required to install systems for the recovery of gasoline vapor emissions. These requirements are also known as Stage I and Stage II vapor recovery.<sup>3</sup>

---

<sup>1</sup> CTG documents are documents issued by EPA to provide States with EPA's presumptive VOC RACT recommendations on how to control VOC emissions from specific products or source categories in ozone nonattainment areas.

<sup>2</sup> See *"Design Criteria for Stage I Vapor Control Systems Gasoline Service Stations"* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards Emission Standards and Engineering Division Research Triangle Park, EPA-450 (November 1975). Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=20013S56.txt>.

<sup>3</sup> On September 25, 2015, EPA approved a SIP revision that removed Stage II vapor control requirements for new and upgraded gasoline dispensing facilities in the State and allowed for the decommissioning of existing Stage II equipment. See 80 FR 57729 for more details on EPA's analysis of the removal of Stage II vapor recovery requirements in the State.

Stage I vapor recovery requires the control of hydrocarbon gasoline vapors, such as VOCs, when dispensing gasoline from tanker trucks into gasoline storage tanks. Specifically, Stage I vapor recovery systems capture vapors displaced from storage tanks at GDFs during gasoline cargo truck deliveries. When gasoline is delivered into an above ground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the tank of the delivery truck. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however, the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

Georgia's Gasoline Dispensing Facilities Rule, found at 391-3-1-.02(2)(rr), applies to certain GDFs located in Barrow, Bartow, Carroll, Catoosa, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Richmond, Rockdale, Spalding, Walker, and Walton Counties. The rule required all facilities in these counties to install either Stage I or Enhanced Stage I gasoline vapor recovery systems by certain dates, the latest of which was May 1, 2023. EPA last modified the SIP-approved version of Rule 391-3-1-.02(2)(rr) on September 28, 2012. *See* 77 FR 59554.

CAA section 110(l) prohibits EPA from approving a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA Section 171), or any other applicable requirement of the CAA. The proposed changes included in Georgia's November 4, 2021, submission will not lead to any increases of NAAQS pollutants and will not otherwise interfere with any CAA applicable requirement.<sup>4</sup> The changes to Georgia's GDF rule and EPA's rationale for proposing approval are described in more detail in section II of this Notice of Proposed Rulemaking (NPRM).

---

<sup>4</sup> Georgia's November 4, 2021, submission also included SIP revisions to address the base year emissions inventory requirements and emissions statements requirements for the 2015 8-hour ozone NAAQS for the Atlanta, Georgia, 2015 8-hour ozone nonattainment area. EPA acted on those SIP revisions in a separate rulemaking. *See* 87 FR 13179 (March 9, 2022).

## **II. Analysis of the State's Submission**

EPA is proposing to approve changes to Rule 391-3-1-.02(2)(rr), "Gasoline Dispensing Facility - Stage I."<sup>5</sup> The revision primarily contains non-substantive changes such as language edits, removing outdated references, and clarifying edits. The revision also updates several definitions and makes two substantive changes.

The bulk of the changes in the November 4, 2021, submission are minor language edits. For example, one language edit removes the phrase "per month" from the sentence, "...gasoline dispensing facilities that dispense no more than 10,000 gallons average monthly throughput rate of gasoline per month..." to remove redundancy. Another example of a language edit is a word preference alteration that changes the word "replacement" to "replaced" in the phrase "replacement parts." Additionally, the State has edited various provisions in the rule to remove titles from sections that are self-explanatory based on the content of the provision. Other similar changes include the correction of typos, small grammatical changes, and the necessary renumbering of some provisions to account for the removal of others.

The proposed revision also makes several changes to clarify the physical nature of gasoline vapor recovery control systems. First, with respect to the required components for a stationary storage tank, the State has added language to subparagraph (rr)1.(i)(III) specifying that required vents must stand vertically. The State added this language to further define the nature of the particular vents that operators/owners use in stationary storage tanks. Although there is no federal requirement for vents to be vertical, the vents must be at least 12 feet above the ground as required in the SIP-approved version of this subparagraph. EPA is proposing to approve this edit because the rule continues to meet the federal requirement for the vent to be at least 12 feet above the ground. Another clarifying edit the State made is to subparagraph (rr)1.(ii)(II), a provision that outlines one method to control vapors displaced from gasoline stationary storage

---

<sup>5</sup> In the November 4, 2021, cover letter, GA EPD requested that EPA not incorporate the changes to paragraphs 391-3-1-.01(nnnn), 391-3-1-.02(2)(rr)16.(x), 391-3-1-.02(8), and 391-3-1-.02(9) into the SIP. For this reason, EPA is not proposing to approve the changes to these paragraphs through this NPRM.

tanks during filling. The edit specifies that when a manifold connects all gasoline stationary storage tanks vent lines, the vapor-tight vapor return line that controls displaced vapors must connect the gasoline stationary storage tank being filled directly to the delivery vessel.

Previously, this provision did not use the word “connected” to specify that the vapor-tight vapor return line must directly link the delivery vessel to a gasoline stationary storage tank. EPA is proposing to approve this edit because it clarifies where the vapor-tight vapor return line must be connected to sufficiently control displaced vapors during the filling process.

In addition to the changes addressing the physical nature of the control technology, the State has made other edits to clarify various certification and recertification testing requirements. First, the State has revised Subparagraph (rr)7. to clarify that when a party other than GA EPD conducts certification or recertification testing of any Stage I gasoline vapor recovery system, the party must identify the California Air Resources Board (CARB) Executive Order number associated with the system to be tested, in addition to other information.<sup>6</sup> This requirement already existed; however, Georgia added the language “associated with the system to be tested” to clarify exactly what information another party would need to submit to GA EPD for either certification or recertification testing.

With respect to other certification and recertification requirements, SIP-approved subparagraph (rr)8.(ii) requires certification testing within 30 days of installation for Enhanced Stage I gasoline vapor recovery systems approved by GA EPD and installed after December 31, 2022, and SIP-approved subparagraph (rr)8.(iv) requires recertification testing after June 1, 2008, within 24 months following the initial certification or recertification for any Enhanced Stage I gasoline vapor recovery system approved by GA EPD. The SIP revision removes these two subparagraphs and expands the applicability of subparagraphs (rr)8.(i) and 8.(iii) (renumbered to (ii)) to account for the removal. Georgia adds the word “any” to subparagraph (rr)8.(i) to require certification testing within 30 days of installation for “any” Stage I gasoline

---

<sup>6</sup> CARB Executive Orders establish certification standards and procedures for specific vapor recovery systems.

vapor recovery system approved by GA EPD after December 31, 2002. Similarly, in subparagraph (rr)8.(iii) (renumbered to (ii)), Georgia adds the word “any” to require recertification testing after June 1, 2008, within 12 months following initial certification or recertification for “any” Stage I gasoline vapor recovery system approved by GA EPD. EPA is proposing to approve these changes to (rr)8. because the addition of the word “any” to describe Stage I gasoline vapor systems in subparagraphs (rr)8.(i) and (rr)8.(iii) (renumbered to (ii)) encompasses all Stage I gasoline vapor systems, including Enhanced Stage I vapor recovery systems and because the change to subparagraph (rr)8.(iii) (renumbered to (ii)) would require recertification testing of Enhanced Stage I vapor recovery systems within 12 months of the initial certification or recertification instead of 24 months, making the new requirements more stringent.

The State made a clarifying edit in subparagraph (rr)9. to specify that “failed test results” for certification or recertification of the gasoline vapor recovery systems must also be included in compliance reports. This requirement already existed as all compliance reports needed to include “results of all tests”; however, the State has included the new language to clarify that all tests does include failed test results.

In addition to the changes to the various certification and recertification requirements, Georgia has revised the rule’s recordkeeping requirements. Specifically, Georgia removed language in subparagraph (rr)13. regarding record disposal that stated there could be no time extension beyond the requirements of the subparagraph. Subparagraph (rr)13. does not have any timing requirements, therefore, EPA is proposing to approve this change as it removes superfluous language.

Finally, Georgia has made some clarifying edits to specify the required vapor efficiency to qualify as a “Stage I Gasoline Vapor Recovery System” or an “Enhanced Stage I Gasoline Vapor Recovery System.” Georgia has revised subparagraph (rr)15.(x)(II) to specify that a vapor recovery system must meet a threshold of 95% vapor collection efficiency to qualify as a

“Stage I Gasoline Vapor Recovery System” and revised subparagraph (rr)15.(iv)(I) to specify that a vapor recovery system must meet a threshold of 98% vapor collection efficiency to qualify as an “Enhanced Stage I Gasoline Vapor Recovery System”. These thresholds already existed in Rule 391-3-1-.02(2) as each respective system was required to function in accordance with the applicable CARB executive orders, and each CARB executive order for Stage I gasoline vapor recovery systems requires at least a 95% vapor control efficiency, while each CARB executive order for each Enhanced Stage I gasoline vapor recovery systems required at least a 98% vapor control efficiency. *See* Georgia Rule 391-3-1-.02(2)(rr)6.; 391-3-1-.02(2)(rr)15.(iv)(I); and 391-3-1-.02(rr)15.(x)(II). Therefore, EPA is proposing to approve these changes.

In addition to the changes outlined above, Georgia has removed language in subparagraph (rr)14. specifying that GA EPD personnel conduct annual compliance inspections and functional testing of all GDFs equipped with Enhanced Stage I or Stage I gasoline vapor recovery systems. This subparagraph now allows either GA EPD personnel or certified third-party testers to conduct annual compliance inspections and functional testing. EPA is proposing to approve this change as it expands the group of certified testers who can perform testing for annual compliance inspections and functional testing.

EPA is proposing to approve this SIP revision because the rule changes are not expected to result in any change to air pollutant emissions and therefore would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirement. In addition, these changes are consistent with all applicable federal requirements for Stage I gasoline dispensing facilities.

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections I and II of this preamble, EPA is proposing to incorporate by reference Georgia Rule 391-3-1-.02(rr), “Gasoline Dispensing Facility – Stage I,” with the exception of changes to

subparagraph 391-3-1-.02(2)(rr)16.(x). This regulation was state effective on October 25, 2021. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” Section of this preamble for more information).

#### **IV. Proposed Action**

EPA is proposing to approve the November 4, 2021, SIP revision to incorporate the changes to Georgia’s Stage I gasoline dispensing facility rules into the Georgia SIP. Specifically, EPA is proposing to approve the changes to Rule 391-3-1-.02(2)(rr), “Gasoline Dispensing Facility – Stage I,” with the exception of changes to subparagraph 391-3-1-.02(2)(rr)16.(x). EPA is proposing to approve these changes for the reasons discussed above.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);



- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks,

including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

Georgia EPD did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

**List of Subjects in 40 CFR Part 52.**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: June 6, 2023.

**Jeananne Gettle,**  
*Acting Regional Administrator,*  
*Region 4.*

[FR Doc. 2023-12580 Filed: 6/12/2023 8:45 am; Publication Date: 6/13/2023]